



EX PARTE OR LATE FILED

**ALLIED COMMUNICATIONS GROUP, INC.**

4201 Connecticut Avenue, N.W.  
Suite 402  
Washington, D.C. 20008

VOICE: (202) 537-1500

FAX: (202) 244-2628

August 7, 1995

**Hand Delivery**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW - Room 222  
Washington, DC 20554

RECEIVED  
AUG 7 1995  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: Errata in Docket No. 93-253

Dear Mr. Caton:

DOCKET FILE COPY ORIGINAL

On behalf of Allied Communications Group, Inc., this Errata is filed to note the following modifications in its filing of August 4, 1995 in the above-captioned matter, as follows:

1. On page one, line 13, should read as follows:  
"...intent to complete the issuance of licenses for broadband PCS..."
2. On page 2, line 6, should read as follows:  
"...avoid ~~the~~ a licensing procedure which..."
3. On page 2, line 9, should read as follows:  
"...under rules ~~governing~~ then governing cellular..."
4. On page 3, subpara. 1, line one, should read as follows:  
"...restrict ~~the number of~~ the number of prospective..."
5. On page 5, line two, should read as follows:  
"...all A/B block licensees ~~make~~ accord resell..."  
Also substitute the corrected (attached) signature page for that which was filed (there are no changes other than to redact certain matters which have no relevance to either this filing or this proceeding).

No change set out above is substantive in nature and, accordingly, the pleading as timely filed should continue as a permanent part of the record in this proceeding. For convenience, a full copy of the August 4, 1995 filing, with the changes outlined above, is associated herewith.

Kindly contact the undersigned should you have questions.

Sincerely yours,

*Curtis T. White*  
Curtis T. White

No. of Copies rec'd 026  
List A B C D E

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

AUG 7 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Implementation of Section 309(j) ) PP Docket NO. 93-253  
of the Communications Act - )  
Competitive Bidding )

COMMENTS OF ALLIED COMMUNICATIONS GROUP, INC.

Allied Communications Group, Inc. (Allied) hereby files its Comments in the above-captioned matter pursuant to the Commission Notice of Postponement of July 27, 1995.

For the reasons stated herein, Allied urges the Commission to examine and, as appropriate, adopt those procedures which will (i) accelerate the issuance of the remaining broadband PCS licenses; and (ii) ensure that the issuance of such licenses are consistent with the dictates of the Omnibus Budget Resolution Act of 1993 (Budget Act).

1. The Dictates Of The Act Are Clear

Allied has participated formally in these matters since its inception in early 1994. At that time, it was the Commission's intent to complete the issuance of licenses for broadband PCS by the end of 1994 or, at the latest, early 1995. This schedule was promulgated in furtherance of the Budget Act which authorized the grant of licenses through competitive bid procedures. The Budget Act is also precise in its further dictates that PCS licensing be

carried out in a manner which ensures: (i) rapid deployment of new technologies; (ii) promotion of economic opportunity; (iii) competition and public access; (iv) wide dissemination of licenses; and (v) efficient use of the spectrum. In sum, and in making its Congressional intent clear, Congress instructed the Commission to avoid a licensing procedure which resulted in a concentration of licenses -- similar to that now plaguing the cellular industry, and an event which is directly traceable to the preferential set-asides accorded wireline carriers under rules then governing cellular licensing.

On June 23, 1995, the Commission granted licenses to the successful bidders in the A/B block; it previously awarded licenses to Pioneer's Preference awardees in December, 1993. Thus, all licenses for the A/B blocks have been granted and the licensees, along with their partitioning partners, have begun the construction of their systems. However, exactly one-half of the authorized licenses for broadband PCS remains to be auctioned and, with each passing day, one-half of the authorized spectrum is losing value as the potential early upside market becomes more susceptible to early stage erosion.

Allied submits that, given these facts, it is clear that this licensing is falling far short of the dictates of the Budget Act and, without an immediate remedial and/or corrective effort, the Commission will find it impossible to discharge its statutory mandate.

## II. The Dilatory Tactics Of Existing Wireless Operators Are Evident

It is unnecessary here to offer a full history of the "stop-and-go" nature of C block auctions. In fairness, the full responsibility for the delays associated with this licensing does not, nor should it lie wholly with the Commission. On the other hand, the Commission must accept some of the blame for the most recent remand since, against more prudent advice, it sought a tortured rescheduling of the August 2, 1995 auctions to the new time of August 29, 1995.<sup>1</sup>

A larger view of the history of these proceedings, however, reveals a more fundamental problem: those who have benefitted from prior set-asides (either in cellular or Pioneer's Preferences), and who have/will receive licenses/partitioning rights, appear bent on pursuing actions designed to delay or otherwise forestall the issuance of licenses for the remaining one-half of the spectrum as long as possible. Some readily apparent facts are instructive in this regard:

1. Major wireless companies sought to restrict the number of prospective licensees and competitors prior to the Commission's issuance of its First Report and Order.
2. The Commission's Rules provide for partitioning rights for rural telcos and, in fact, some partitioning had occurred prior to the conclusion of the A/B block bids by both bidders and Pioneer's Preference awardees alike.

---

<sup>1</sup> Allied Communications recommended that the Commission establish a time frame in excess of what was ultimately adopted, and such recommendation was based, in part, on Allied's view of the basic tenets of the Administrative Procedure Act, and the fact that an additional 30 day period (compared with a Court mandated delay) would not have caused serious injury to prospective bidders.

3. The litigation to date has been undertaken by either a wireline entity or by a Pioneer's Preference awardee;

4. In both instances of the litigation, the parties were pursuing rights which, in operation or fact, were then available.

5. The practical effect of the Court appeals growing directly out of the F.C.C. licensing process can be summed up thusly: it restrained the much sought after competition in wireless communications and, if left unchecked, will make a mockery of the auction process.

3. The Commission Must Take Immediate Steps To Ensure That The Public Interest Is Served, And Immediately Implement A Reselling Requirement For A/B Block Licensees/Pioneer's Preference Awardees

When the Commission first considered a mandatory resell requirement, it chose not to include such a provision on the premise that broadband licenses would go out in such a manner that, in effect, one could argue they were simultaneous issuances. Were it to evolve differently, reasoned the Commission, it may be appropriate to revisit this presumption.

The time for such a revisit is now, and the Commission must do no less than require all A/B block licensees to grant resell rights to all competitors in recognition of the fact that such a procedure is in furtherance of the dictates of the Budget Act.

Conclusion

For all of the foregoing reasons, Allied urges the Commission to act expeditiously and require all A/B block licensees accord resell rights to third parties similar to those requirements governing cellular licensees.

Respectfully submitted,

ALLIED COMMUNICATIONS GROUP, INC.

By: 

Curtis T. White  
4201 Connecticut Ave., NW  
Suite 402  
Washington, DC 20008-1158

Its President

Counsel:

Edward Hayes, Jr., Esq.  
1155 Connecticut Avenue, NW  
Third Floor  
Washington, DC 20036